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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,839	09/11/2003	Helmut Schlessmann	A 91 829/lr	5182
30996 7590 03/23/2007 ROBERT W. BECKER & ASSOCIATES 707 HIGHWAY 333 SUITE B TIJERAS, NM 87059-7507			EXAMINER DUONG, THANH P	
			ART UNIT	PAPER NUMBER
			1764	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/659,839

Applicant(s)

SCHLESSMANN ET AL.

Examiner

Tom P. Duong

Art Unit

1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicants' remarks and amendments filed on January 3, 2007 have been carefully considered. Claim 1 has been amended. New claim 17 has been added. Claims 1-17 are pending in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-9 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jourdan '689 in view of Karlsson et al. '026. Regarding claims 1-5, 7, 9, and 13-14, and 16-17, Jourdan discloses a catalytic converter (Fig. 3) for the after-treatment of exhaust gas of an internal combustion engine, comprising: a housing (6a, 6b) having an internal space (27,28) adapted to receive exhaust gas therethrough, wherein said housing is provided with openings (19,21) for entry of exhaust gas into and out of said internal space, wherein surfaces of walls of said housing facing said internal space contain cartridges in a liners (25) having sound damping material impregnated with catalyst (Col. 4, lines 56-65) in a flow path between said openings, and hollow domes (25) disposed on each of two oppositely disposed walls (Figure 3) of said housing, wherein said hollow domes extend into said internal space, wherein free ends of said

hollow domes are provided with said openings (26), and wherein the free ends of those hollow domes on one of said walls extend beyond free ends of those hollow domes of the oppositely disposed wall such that one of said hollow domes disposed on one of said walls extends between ones of said hollow domes disposed on the other of said walls and said opening of said one hollow dome on said one wall is disposed in a space between said ones of said hollow domes disposed on the other wall, and wherein flow of exhaust, gas in said internal space in said housing is adapted to be diverted in the area of said openings at said free ends of said hollow domes to provide a thorough mixing of the exhaust gas (Fig. 3); and wherein said housing is provided with aligned holes for receiving fixing or mounting elements that extend through said housing (Fig. 2).

Jourdan '689 discloses the use of a catalyst but fails to disclose the walls are coated with catalytically active material. However, Karlsson et al. '026 teaches the inside of the housings 13 and 14 are coated with catalyst layer to facilitate in treating the exhaust gas (Col. 4, lines 56-65). Thus, it would have been obvious in view of Karlsson et al. '026 to one having ordinary skill in the art to provide a catalyst coating as taught by Karlsson et al. '026 in the device of Jourdan '689 to facilitate in treating the exhaust gas. With respect to the openings at the free ends, Jourdan '689 provides the hollow domes (25) with a plurality of openings with at least one opening at or near the free ends and the exact location of the openings is directed to rearrangement of parts, which does not alter the operation of the device of diverting the flow thru the gap. Note, the recitation of instant claims does not exclude additional openings on the circumferential or peripheral walls of the liners or domes (25). Regarding claim 6 and 8, the apparatus of the applied

references is substantially the same as that of the instant claims but is silent with respect to the shape and size of the hollow domes. It is submitted that when the only difference between the prior art and the claims is a recitation of relative shapes and dimensions of the claimed device, and the device having the claimed shapes and dimensions and would not perform differently than the prior art device, the claimed device is not patentably distinct from the prior art device. Accordingly, it would have been an obvious matter of design choice in view of the applied references to one having ordinary skill in the art to optimize the shape and size of the hollow domes as claimed in the instant claim, since such a modification would have involved a mere change in the shape and size of a component. A change in shape and size is generally recognized as being within the level of ordinary skill in the art. Regarding claim 15, the applied references disclose the catalytic converter installed in the muffler with inlet window disposed at the same level of the inlet opening of said muffler. Note, the recitation of installing the catalytic converter with respect to the inlet window disposing at the same level as an inlet opening of said muffler is directed to intended use of a structure, which does not further limit structural limitations.

2. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the applied references (Jourdan '689 in view of Karlsson et al. '026) and further in view of Patent Application Publication 2001/00254408 (hereinafter PAP '408). Regarding claims 10-12, the applied references disclose the features of the claimed invention except shell portions are connected by means of an edge bead in the vicinity of said

Art Unit: 1764

flange collar and pot-shaped configuration with abutment edge. PAP '408 teaches the shells (4,6) of a muffler (2) is joined together by a first and second flange portions (8, 10) with a bead (14) in the vicinity of said flange collar and such joining structure provide the benefits of a tight seal without using any sealing and packing material, which simplify the manufacturing process and minimize manufacturing cost (Sections 0016-0018). Thus, it would have been obvious in view of PAP '408 to one having ordinary skill in the art to modify the shell portions of the applied references with the flange collar having edge bead as taught by PAP '408 in order to gain the above benefits.

Response to Arguments

Applicant's arguments filed January 3, 2007 have been fully considered but they are not persuasive. (1) Applicants argue the reference Jourdan shows the free ends of the cylindrical liners are closed. It is submitted that Jourdan '689 provides the hollow liners or domes (25) with a plurality of openings with at least one opening at or near the free ends and the exact location of the openings is directed to rearrangement of parts, which does not alter the operation of the device of diverting the flow thru the gap. Note, the recitation of instant claims does not exclude additional openings on the circumferential or peripheral walls of the liners or domes (25). (2) The art rejection with respect to the Karlsson, alone, is withdrawn; thereby, the argument with respect to Karlsson's et al. reference, alone, is moot.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom P. Duong whose telephone number is (571) 272-2794. The examiner can normally be reached on 8:00AM - 4:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tom Duong
March 6, 2006

TD


GLENN A. CALDAROLA
PRIMARY EXAMINER
GROUP 100